

RESOLUTION GRANTING THIRD ROUND SUBSTANTIVE CERTIFICATION #25-09

Township of South Hackensack, Bergen County

WHEREAS, on December 30, 2008, the Township of South Hackensack, Bergen County, petitioned the Council on Affordable Housing (COAH) for substantive certification of a Housing Element and Fair Share Plan addressing its total 1987-2018 affordable housing obligation; and

WHEREAS, the Township's petition was deemed complete on February 25, 2009; and

WHEREAS, pursuant to N.J.S.A. 52:27D-313 and N.J.A.C. 5:96-3.5, on March 1, 2009, the Township published notice of its petition in the *Record* which is a newspaper of general circulation within the county; and

WHEREAS, on April 14, 2009, one objection to the plan was received by COAH during the 45-day objection period, which ended May 12, 2009; and

WHEREAS, mediation commenced on July 13, 2009 and concluded that same day; and

WHEREAS, a mediation report was issued on July 14, 2009, and is appended as Attachment A of the COAH Compliance report, which is Exhibit 1 to this resolution; and

WHEREAS, South Hackensack proposes the reduction of its COAH calculated 40-unit projected growth share obligation with the application of a growth projection adjustment pursuant to N.J.A.C. 5:97-5.6; and

WHEREAS, COAH staff has determined that South Hackensack's municipal capacity analysis supports the Township's request for a growth projection adjustment of its growth share obligation from 40 units to 10 units and recommends that the Council grant this adjustment; and

WHEREAS, South Hackensack's fair share plan addresses a total 1987-2018 affordable housing obligation of 21 units, consisting of a 10-unit rehabilitation share, one-unit prior round obligation and a 10-unit projected growth share obligation pursuant to N.J.A.C. 5:97; and

WHEREAS, COAH staff has reviewed the Township's Housing Element and Fair Share Plan, which is incorporated by reference herein; and

WHEREAS, COAH staff conducted a site visit on July 6, 2009; and

WHEREAS, the Township proposes to address its 10-unit rehabilitation share with one rehabilitation credit; and

WHEREAS, the Township proposes to continue to work with the Bergen County Housing Improvement Program (BCHIP) in order to rehabilitate an additional nine units; and

WHEREAS, the Township has a one-unit prior round obligation in the form of a determination of realistic development potential (RDP) that is the result of a previously certified second round a vacant land adjustment; and

WHEREAS, the Township proposes to address this one-unit RDP with an age-restricted rental unit at the Madeline project at 37-43 Grove Street, which is currently under construction and where occupancy is expected in February of 2010; and

WHEREAS, the Township proposes to address the 49-unit unmet need portion of its affordable housing obligation with previously certified unmet need mechanisms that continue to present a realistic opportunity for creating affordable housing units should South Hackensack experience further development or redevelopment; and

WHEREAS, these mechanisms include:

1. The application of the additional 24 age-restricted rental units at the Madeline project to the unmet need;

2. The continued implementation of a previously approved development fee ordinance, through which the municipality has collected \$129,346 to date for the sole purpose of creating affordable housing units;
3. The continued applicability of a previously approved overlay zone that requires a 20% set-aside in any residential development of five or more units; and

WHEREAS, pursuant to N.J.A.C. 5:96-7.4, on July 24, 2009, COAH issued a Compliance Report (attached as Exhibit 1 and incorporated by reference herein) recommending approval of the Township's petition for third round substantive certification; and

WHEREAS, this Compliance Report inadvertently omitted comments received from the Fair Share Housing Center (FSHC) on April 15, 2009, which is attached as Exhibit 2; and

WHEREAS, there was a 14-day period to submit comments to the COAH Compliance Report pursuant to N.J.A.C. 5:96-6.2(b) and COAH received two comments from the objectors to this plan, De Grosa and Bedell, and these comments are attached as Exhibit 3; and

WHEREAS, COAH staff has prepared a COAH Report in Response to Comments which address both the FSHC and De Grosa/ Bedell comments and is attached as Exhibit 4; and

WHEREAS, in response to the Mediation Report and the De Grosa/ Bedell comments, on August 6, 2009, the Township of South Hackensack adopted resolution # 2009-156 which outlines the Township's intent to address all issues raised in mediation within 45 days of substantive certification and this resolution is attached as Exhibit 5; and

NOW THEREFORE BE IT RESOLVED that the Housing Element and Fair Share Plan submitted by the Township of South Hackensack comports to the standards set forth at N.J.S.A. 52:27D-314 and meets the criteria for third round substantive certification pursuant to N.J.A.C. 5:96-6.3; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.2(a), after having reviewed and considered all of the above, COAH hereby grants third round substantive certification to the Township of South Hackensack; and

BE IT FURTHER RESOLVED that after receiving final substantive certification, pursuant to N.J.A.C. 5:96-6.3(e), the Township shall adopt all implementing Fair Share Ordinances and address all issues raised in mediation within 45 days of this grant of substantive certification; and

BE IT FURTHER RESOLVED if the Township fails to timely adopt its Fair Share Ordinances, COAH's grant of substantive certification shall be void and of no force and effect; and

BE IT FURTHER RESOLVED that South Hackensack shall submit all Fair Share Ordinances to COAH upon adoption; and

BE IT FURTHER RESOLVED that South Hackensack shall comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting South Hackensack's actual growth pursuant to N.J.A.C. 5:97-2.5; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-10.1, COAH shall conduct biennial plan evaluations upon substantive certification of South Hackensack's Housing Element and Fair Share Plan to verify that the construction or provision of affordable housing has been in proportion to the actual residential growth and employment growth in the municipality and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing; and

BE IT FURTHER RESOLVED that if upon any biennial review the difference between the number of affordable units constructed or provided in South Hackensack and the number of units required pursuant to N.J.A.C. 5:97-2.5 results in a pro-rated production shortage of 10 percent or greater; the Township is not adhering to its implementation schedule pursuant to N.J.A.C. 5:97- 3.2(a)4; or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing then, the Council may direct the municipality to amend its plan to address the shortfall; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:97-2.5(e), if the actual growth share obligation determined is less than the projected growth share obligation, South Hackensack shall continue to provide a realistic opportunity for affordable housing to address the projected growth share; and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 5:96-6.3(b), South Hackensack's substantive certification shall remain in effect until December 30, 2018; and

BE IT FURTHER RESOLVED that any changes to the facts upon which this substantive certification is based or any deviations from the terms and conditions of this substantive certification which affect the ability of the Township to provide for the realistic opportunity of its fair share of low- and moderate-income housing and which the Township fails to remedy, may render this certification null and void.

I hereby certify that this resolution was
duly adopted by the Council on Affordable
Housing at its public meeting on August 12, 2009.

A handwritten signature in cursive script, reading "René Reiss". The signature is written in black ink and is positioned above the printed name of the signatory.

René Reiss, Secretary
Council on Affordable Housing



***Council on Affordable Housing
Compliance Report
July 24, 2009***



Municipality: South Hackensack Township
County: Bergen County

COAH Region: 1
Planning Area: PA1, PA2, PA4, PA5 and PA9
Special Resource Area: Meadowlands

Housing Element and Fair Share Plan Adopted: December 11, 2008
Petition for 3rd Round Substantive Certification: December 30, 2008
Completeness Determination: February 25, 2009
Date of Publication: March 1, 2009

Objections Received: South Hackensack constituents –
Joann De Grosa and Lonnie Bedell

Petition Includes:
VLA: Yes, from second round
GPA: Yes
Waiver: No

Date of Site Visit: July 6, 2009

History of Approvals:

	COAH	JOC	N/A
First Round:			<i>x</i>
Second Round:	November 22, 2004		
Extended Certification:			<i>x</i>

Plan Preparer: Michael D. Kauker, P.P., AICP, Kauker and Kauker

Municipal Housing Liaison: Linda LoPiccolo, RMC/CMC Municipal Clerk

Recommendation: Grant Substantive Certification

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	10
Prior Round Realistic Development Potential (RDP) (Unmet Need of 49)	1
Projected Growth Share Obligation (Net)	10

ACTUAL GROWTH and GROWTH SHARE to September 1, 2008 ¹

Res Units (#)	Actual Res Growth Share	Jobs (#)	Actual Non-Res Growth Share	Actual TOTAL Growth Share
28	5.6 units	63	3.9 units	10 units

COMPLIANCE PLAN SUMMARY

Obligation	Credit/ Mechanism Type	# Units Completed	# Units Proposed	TOTAL
Rehabilitation: 10 units				
Credits	Post-April 1, 2000	1		1 ²
Program	BCCHIP		9	9
Rehabilitation Subtotal				10
NEW CONSTRUCTION:				
Prior Round Realistic Development Potential: 1 unit (Unmet need = 49)				
Adjustments	Vacant land adjustment		49	49
Post – 1986 Credit	Age-Restricted Rental Unit		1	1
	<i>Unmet Need –</i> 1. Balance of Madeline units 2. Overlay Zone 3. Development Fee Ord.	(24) (Adopted but not utilized to Date) (\$129,346.88 to date)		
Prior Round Subtotal				1
Growth Share: 10 units				
Proposed Mechanism	Accessory Apartment Program		10	10
Growth Share Subtotal				10

¹ This growth share number does not take into account allowable exclusions permitted under N.J.A.C. 5:97-2.4; therefore, the actual growth share may vary.

² South Hackensack's plan requests two credits, however, one project was completed in 1997. Per N.J.A.C. 5:97-2.2(b), the Township may only receive credit for rehabilitations completed after April 1, 2000.

I. HOUSING ELEMENT

Pursuant to N.J.S.A. 40:55D-28(b), the Housing Element is a required section of the Municipal Master Plan. The Housing Element must be designed to achieve the goal of access to affordable housing to meet existing and future housing needs, with special attention given to low- and moderate-income households. The housing needs analysis must include demographic information on existing and projected housing stock and employment characteristics, a quantification of low- and moderate-income housing need, and a consideration of the lands within the municipality that are most appropriate to accommodate such housing. South Hackensack's Housing Element includes sufficient information regarding housing stock, demographic and employment characteristics and population trends pursuant to N.J.S.A. 52:27D-310.

Under N.J.A.C. 5:97-2.1(b), the Housing Element must also set forth the municipality's fair share obligation, which is the sum of the rehabilitation share, the prior round obligation, and the growth share.

A. Rehabilitation Share

The rehabilitation share is the number of existing housing units within a municipality as of April 1, 2000, that are both deficient and occupied by households of low- or moderate-income. As indicated in Appendix B of N.J.A.C. 5:97, South Hackensack has a rehabilitation share of 10 units.

B. Prior Round Obligation

The prior round obligation is the cumulative 1987-1999 new construction obligation provided in Appendix C of N.J.A.C. 5:97. South Hackensack has a prior round obligation of 50 units. However, South Hackensack received a vacant land adjustment that resulted in a reduced new construction obligation or realistic development potential (RDP) of one unit and an unmet need of 49 units.

C. Projected Growth Share

The projected growth share is initially calculated based on household (residential) and employment (non-residential) growth projections for 2004 through 2018. Pursuant to Appendix F of N.J.A.C. 5:97, South Hackensack has a residential growth projection of 20 units and a non-residential growth projection of 572 jobs. However, N.J.A.C. 5:97-5.6

permits municipalities to request an adjustment to the growth projections published by COAH. Growth projections adjustments are based on an analysis of municipal capacity to accommodate residential and non-residential growth through the development of vacant land. Environmental and logistical constraints are subtracted from each vacant parcel identified and any remaining, unconstrained, developable land is presumed to have the capacity to support development based on the densities and non-residential intensities of use outlined in N.J.A.C. 5:97-5.6(e). Sites used to address prior round affordable housing needs are also permitted to be excluded from this inventory to the extent that they produced affordable housing commensurate with COAH's prior round set-aside standards.

South Hackensack included the required Workbook C with its petition for certification (attached as Appendix A) which results in an initial projected growth based on actual growth to date and the capacity of remaining unconstrained, developable land. COAH's projection attributed to South Hackensack a 40-unit third round new construction obligation, consisting of 5 units from a residential growth projection of 20 housing units and a non-residential obligation of 35 units from an employment projection of 572 jobs. After subtracting the allowable exclusions for sites addressing the prior round obligation, South Hackensack's residential growth is projected to be 28 units and the non-residential growth projection is reduced to 63 jobs. Upon review of the municipal capacity analysis, COAH has determined that it satisfies the requirements of N.J.A.C. 5:97-5.6 and warrants an adjustment to the growth projection published by COAH. Therefore, South Hackensack's total projected growth share for the period 1999-2018 is 10 affordable units consisting of a 5.6-unit projected residential growth share and a 3.9-unit projected non-residential growth share.³ Pursuant to N.J.A.C. 5:97-5.7, South Hackensack has addressed the potential growth share opportunities that may arise despite a growth projection adjustment. South Hackensack will capture affordable housing opportunities through the continuation of the previously certified, municipal-wide, overlay zoning mechanism that requires a 20 percent set-aside for affordable housing in projects of five units or more, and the amended and COAH approved development fee ordinance.

³ Pursuant to N.J.A.C. 5:97-2.2(d), South Hackensack's residential growth projection of 28 is divided by 5 to yield 5.6 or 6 units and the non-residential growth projection of 63 jobs is divided by 16 to yield 3.9 units. South Hackensack's total projected growth share is therefore 10 units ($5.6 + 3.9 = 9.5$ or 10).

SUMMARY OF FAIR SHARE OBLIGATION

Rehabilitation Share	10
Prior Round Realistic Development Potential (Unmet Need of 49)	1
Adjusted Projected Growth Share (Net)	10

II. FAIR SHARE PLAN

A Fair Share Plan, as required under N.J.A.C. 5:97-3.1, describes the completed or proposed mechanisms and funding sources, if applicable, that will be utilized to specifically address a municipality's rehabilitation share, prior round obligation, and growth share obligation and includes the draft ordinances necessary to implement that plan. Affordable housing must be provided in direct proportion to the growth share obligation generated by the actual growth.

South Hackensack's Fair Share Plan, and the supporting documentation incorporated by reference therein, address the requirements of N.J.A.C. 5:97-3.1 as follows:

A. Plan to Address Rehabilitation Share

Rehabilitation Share Credits

South Hackensack is requesting credit for two units rehabilitated through the Bergen County Home Improvement Program (BCHIP); however, one of these units was rehabilitated in 1997 and cannot be counted toward a third round obligation. In accordance with N.J.A.C. 5:97-4.1(d), all credits will be verified and validated during monitoring subsequent to substantive certification pursuant to N.J.A.C. 5:96-11.

Rehabilitation Credits

Rehabilitation Program	# Credits
Bergen County Home Improvement Program (BCHIP)	1
TOTAL	1

Proposed Rehabilitation Program

Bergen County Home Improvement Rehabilitation Program

South Hackensack will utilize the Bergen County Home Improvement Program (BCHIP) to address the remaining nine units of its rehabilitation obligation. South Hackensack has provided an agreement with BCHIP calling for the Township's continued participation in the County rehabilitation program. The BCHIP has submitted an operating manual pursuant to COAH's rules. This program adheres to the regulations in N.J.A.C. 5:97-6.2, including availability of this program to both owner-occupied and renter-occupied units and requiring affordability controls of at least ten years.

The Township's plan states that these owner-occupied and renter-occupied units will be funded by Bergen County's HOME program and through South Hackensack's contribution of \$80,000 from collected and anticipated development fees. Pursuant to N.J.A.C. 5:97-6.2(b)3, the Township's spending plan dedicates sufficient funds to insure that at least half, or five, rehabilitations will be completed by the mid-point of substantive certification, or by 2014. In addition, on February 19, 2009, South Hackensack adopted a resolution of intent to appropriate funds or to bond in the event of a shortfall, (# 2009-074).

Proposed Rehabilitation Program

Rehabilitation Program	# Units
Bergen County Housing Improvement Program	9
TOTAL	9

**B. Plan to Address Prior Round Obligation
Prior Round Obligation Credit**

South Hackensack is addressing its 1-unit prior round RDP with a post-1986 credit for a previously certified age-restricted rental unit at the Madeline project, located on Grove Street. This project is currently under construction and occupancy is expected in February 2010. See complete project description below.

Post-1986

Type/Name of Affordable Housing Mechanism	Year	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Madeline / Municipally-Sponsored	Under Construction	Age-Restricted Rental	1	-	-	1
TOTALS			1		1	1

Madeline / Municipally-Sponsored 100% Affordable Development

South Hackensack received prior round certification of a Housing Element and Fair Share Plan that included one credit for an age-restricted rental unit at the then proposed Madeline project and this unit satisfied the Township's prior round RDP of 1 unit. In accordance with N.J.A.C. 5:97-4.3(a)3, this unit continues to be eligible for credit and COAH honors that previous certification. The Madeline project is currently under construction on .68 acres located at 37-43 Grove Street, (Block 2.01, Lots 9, 10 and 10.01). Surrounding land uses include single-family detached units to the North and East and light industrial to the West. A COAH staff site visit on July 6, 2009, revealed that the project is nearly complete. This development will be served by public water and sewer and will be administered by the Bergen County Housing Authority (BCHA). This 25-unit age-restricted rental project was funded with federal Low Income Housing Tax Credits (LIHTC) and HOME Express funding through the Department of Community Affairs, Balanced Housing Office. The municipality still owns

these parcels, but has entered into a 53-year lease with the developers, jointly, the Madeline Development Corporation and the BCHA. Initial occupancy is anticipated in February 2010. The balance of these age-restricted units will be used to address a portion of the municipality's unmet need of 49 units.

Unmet Need

South Hackensack is addressing a portion of the Prior Round Unmet Need with previously approved unmet need mechanisms, including a development fee ordinance, a municipal-wide overlay zone and the 24 remaining age-restricted rental units at the Madeline project. As required under N.J.A.C. 5:97-5.2(c), COAH has reviewed South Hackensack's existing land use map and inventory for areas that may develop or redevelop and has determined that it is not necessary at this time to require new or additional mechanisms to address the Unmet Need. The mechanisms in place continue to present a realistic opportunity for the production of affordable housing.

Proposed Unmet Need Affordable Housing Mechanisms

Unmet Need Mechanisms	Year Built or Approved	Type of Affordable Unit or Resources	Total Resources to Date
Madeline	2007; under construction	Age-Restricted Rental	24
Overlay Zone	2004	20% set-aside -dev. > 5 units	Not utilized to date
Development Fee Ordinance	2004	Affordable housing funds	\$129,324.88
TOTALS			24 +

Prior Round Obligation Parameters

South Hackensack has satisfied the applicable Prior Round parameters as follows:

Prior Round Rental Obligation:⁴ 1 Unit

Development/Project Name	Type of Affordable Unit	# Units
Madeline	Age-Restricted Rental	1
TOTAL		1

Prior Round Age-Restricted Maximum (RDP)⁵ : 2 Units

Development/Project Name	Type of Affordable Unit	# Units
Madeline	Age-Restricted Rental	1
TOTAL		1

Prior Round Age-Restricted Maximum (Unmet Need)⁶ : Exempt⁷

Development/Project Name	Type of Affordable Unit	# Units
Madeline	Age-Restricted Rentals	24
TOTAL		24

Regional Contribution Agreement (RCA) Maximum (RDP)⁸: 5 Units

Receiving Municipality(s)	Type of Affordable Unit	# Units
None		0
TOTAL		0

⁴ Rental Obligation: .25 (RDP) or .25 (1) = .25 or 1 unit N.J.A.C. 5:97- 3.11(b)1

⁵ Age-Restricted Maximum (RDP): .25 [RDP + (rehabilitation share – rehabilitation credits)] .25 [1 + (10 – 1)] = 2.5 or 2 N.J.A.C. 5:97-3.11(c)1,i

⁶ Age-Restricted Maximum (Unmet Need): .25 (Unmet Need) .25(49) = 12.25 or 12 N.J.A.C. 5:97-3.11(c)1,ii. However, pursuant to N.J.A.C. 5:97-5.3(b)6 South Hackensack is exempt from this limitation. See footnote 7.

⁷ South Hackensack is exempt from the maximum limitation imposed on age-restricted units addressing unmet need, as, pursuant to N.J.A.C. 5:97-5.3(b)6, these units were part of a previously certified plan; the project received final approval on July 16, 2007 - before the Township petitioned on December 30, 2008.

⁸ RCA Maximum (RDP): N.J.A.C. 5:97-3.11(d)1,i

Regional Contribution Agreement (RCA) Maximum (Unmet Need)⁹: 24 Units

Receiving Municipality(s)	Type of Affordable Unit	# Units
None		0
TOTAL		0

Prior Round Rental Bonus Maximum¹⁰: 1 Unit

Development/Project Name	Type of Bonus	# Bonuses
None		0
TOTAL		0

C. Plan to Address Projected Growth Share

Proposed Affordable Housing Mechanism

South Hackensack proposes to address its 10-unit growth share obligation through the following mechanism:

Accessory Apartment Program

Pursuant to N.J.A.C. 5:97-6.8, South Hackensack proposes the creation of an accessory apartment program to address its 10-unit projected growth share obligation. A municipality may receive credit at the time of substantive certification for up to 10 accessory apartment units, or for an amount equal to a combined total of 10 percent of the fair share obligation, whichever is greater. South Hackensack has chosen to create a 10-unit accessory apartment program by municipal ordinance that will be administered by the BCHA, which is an experienced administrative agent. The township has submitted an accessory apartment operating manual, pursuant to COAH's model. The creation of these units will be funded through \$225,000 in previously collected and anticipated development fees. The Township has adopted a resolution, dated February 19, 2009, (# 2009-074) of

⁹ RCA Maximum (Unmet Need): = .5 (RDP + rehabilitation share – rehabilitation credits) .5 (1 +10-1) = 5 units N.J.A.C. 5:97-3.11(d)1,ii

¹⁰ No rental bonuses shall be granted for rental units in excess of the prior round rental obligation, therefore, PR Rental Bonus Maximum = PR Rental Obligation

intent to bond to cover any shortfall in funding. The Township will provide the minimum subsidy of \$20,000 for each of the five moderate-income units and \$25,000 for each of the five low-income units. Subsidies may be used by property owners to fund actual construction costs and/or to provide compensation for reduced rental rates.

In order to satisfy the municipality's obligation to provide one very low-income unit, the Township has agreed to deed restrict one of these units to be reserved for households with very low-incomes. An additional subsidy will be provided for the very low income unit.

South Hackensack's housing stock lends itself to the creation of accessory apartments due to the extensive stock of single family detached garages which might be converted to housing units. South Hackensack has provided a draft accessory apartment zoning that will permit the creation of accessory apartments throughout the Township. Once created, these units will have 10-year affordability controls pursuant to N.J.A.C. 5:97-6.8(c)1.

The accessory apartments will be served by public water and sewer, as the entire Township enjoys public services. A projected schedule for the creation of these units is included in the spending plan.

Pursuant to N.J.A.C. 5:97-6.8(e), the Borough has submitted an affirmative marketing plan that has already been reviewed by COAH staff.

Proposed Growth Share Affordable Housing Mechanism

Type/Name of Affordable Housing Mechanism	Type of Affordable Unit	# Units/Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Accessory Apartment Program	Family Rentals	10	-	-	10
TOTALS		10		-	10

Growth Share Parameters

South Hackensack has satisfied the applicable growth share parameters as follows:

Growth Share Rental Obligation:¹¹ 3 Units

Development/Project Name	Type of Affordable Unit	# Units
Accessory Apartment Program	Rental	10
TOTAL		10

Growth Share Family Rental Requirement¹² : 2 Units

Development/Project Name	Type of Affordable Unit	# Units
Accessory Apartment Program	Rental	10
TOTAL		10

Growth Share Minimum Family Requirement¹³ : 5 Units

Development/Project Name	Type of Affordable Unit	# Units
Accessory Apartment Program	Rental	10
TOTAL		10

Very Low Income Minimum Requirement¹⁴ : 1 Unit

Development/Project Name	Type of Affordable Unit	# Units
Accessory Apartment Program	Rental	1
TOTAL		1

¹¹ Projected Growth Share Rental Obligation: .25 (Projected Growth Share) or .25 (10) = 2.5 or 3 units
N.J.A.C. 5:97-3.10(b)3

¹² Projected Growth Share Family Rental Requirement: .5 (Projected Growth Share Rental Requirement) or .5 (3) = 1.5 or 2 units N.J.A.C. 5:97-3.4(b)

¹³ Projected Growth Share Family Requirement: .5 (Units Addressing the Growth Share Obligation) or .5 (10) = 5 units N.J.A.C. 5:97-3.9

¹⁴ Growth Share Very Low Income Requirement: .13 (growth share obligation) or .13 (10) = 1.3 or 1 unit pursuant to P.L.2008, c.46

Age-Restricted Maximum¹⁵ : 2 Units

Development/Project Name	Type of Affordable Unit	# Units
None		0
TOTAL		0

Bonus Maximum¹⁶: 2 Bonuses

Development/Project Name	Type of Bonus	# Bonuses
None		0
TOTAL		0

Actual Growth Share Obligation

The actual growth share obligation will be based on permanent certificates of occupancy issued within the municipality for market-rate residential units and newly constructed or expanded non-residential developments in accordance with Appendix D of N.J.A.C. 5:97. At plan evaluation review pursuant to N.J.A.C. 5:96-10, COAH will compare the actual growth share obligation with the actual number of affordable units constructed.

The New Jersey Department of Community Affairs (NJ DCA) Construction Reporter indicates that between January 1, 2004 and September 2008, South Hackensack issued certificates of occupancy for 28 housing units and for the nonresidential square footage equivalent of 63 jobs, yielding an actual growth share obligation through September 30, 2008, of 10 affordable units.¹⁷ As required at N.J.A.C. 5:97-3.3(a)4,i, documentation for mechanisms addressing the growth share up to the first plan review were submitted as a part of South Hackensack's petition.

¹⁵ Projected Growth Share Age Restricted Maximum: .25 (Projected Growth Share) or .25 (10) = 2.5 or 2 units

¹⁶ Projected Bonus Maximum: .25 (Projected Growth Share) or .25 (10) = 2.5 or 2 units

¹⁷ The number of residential COs (28) is initially divided by 5 to yield 5.6 units and the number of jobs (63) is initially divided by 16 to yield 3.9 units. South Hackensack's total actual growth share is therefore 10 units (5.6 + 3.9) = 9.5 or 10.

D. Summary of Plan to Address Fair Share Obligation

REHABILITATION SHARE SUMMARY

Rehabilitation Share: 10 Units

Program Name	# Units
Completed Units – BCHIP	1
Proposed Units – BCHIP	9
TOTAL	10

PRIOR ROUND SUMMARY

Prior Round RDP: 1 Unit

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Post-1986 Credit	Madeline / Municipally- Sponsored	1	Age- Restricted Rental	-	1
TOTAL					1

GROWTH SHARE SUMMARY

Projected Growth Share Obligation: 10 Units

	Name of Mechanism	# Units/ Bedrooms	Bonus Type	# Bonuses	Total Units/Bedrooms + Bonuses
Proposed Mechanism	Accessory Apartment Program	10	-	-	10
Subtotal		10		0	10
TOTAL					10

III. PLAN REVIEWED BY THE NEW JERSEY MEADOWLANDS COMMISSION

On April 3, 2009, the New Jersey Meadowlands Commission (NJMC) provided COAH with a report reviewing South Hackensack's petition of a Housing Element and Fair Share Plan. The NJMC is a regional land use authority created by the Hackensack Meadowlands Reclamation and Development Act of 1969. Until 2001, the NJMC was known as the Hackensack Meadowlands Development Commission and was given express powers of planning and zoning for portions of 14 municipalities in Bergen and Hudson Counties, within approximately 30.4 square miles of land along the Hackensack River. This zoning power allows the Commission to create a comprehensive area master plan from a regional perspective, which, rather than ending zones at municipal borders, lays out use designations regionally based on characteristics of the land, the environment, and the infrastructure.

The NJMC has entered into an MOU with COAH, dated March 12, 2009, and this agreement outlines the agencies' continued cooperative planning process, the joint implementation of housing regulations and policy, and the Commission's expedited review of development projects containing affordable housing. In furtherance of creating affordable housing within the District, the Commission has created an affordable housing task force, and COAH's executive director is a member of this task force.

Approximately 86 acres, or 16.9 percent of the total land area in South Hackensack, is under the jurisdiction of the NJMC. None of the existing or proposed affordable housing programs in South Hackensack's plan are within the Meadowlands District. In support for the Township's request for a growth projection adjustment, the NJMC cites the vacant land inventory it completed in 2007 which estimated the capacity for new construction through redevelopment. This inventory determined that "[n]o potential development opportunities were identified for the Meadowlands portion of South Hackensack, due to the lack of vacant land and the absence of anticipated redevelopment projects."

IV. FAIR SHARE DOCUMENT REVIEW

A. Development Fee Ordinance

South Hackensack's certified plan included a development fee ordinance that was approved by COAH on April 29, 2004, and adopted by South Hackensack on December 9, 2004. South Hackensack submitted a draft amended development fee ordinance for COAH's review and approval with its third round petition. The amended development fee ordinance was approved on April 24, 2009.

B. Third Round Spending Plan

South Hackensack's prior round spending plan was approved by COAH on November 17, 2004. A revised third round spending plan was submitted by South Hackensack with South Hackensack's third round petition for COAH's review and approval. The spending plan will be reviewed by COAH in a separate report.

C. Affordable Housing Ordinance/Affordable Housing Administration

South Hackensack has an adopted affordable housing ordinance for its prior round obligation. South Hackensack has submitted a revised draft affordable housing ordinance that comports with the requirements of the Uniform Housing Affordability Controls (UHAC), N.J.A.C. 5:80-26.1 et seq., which was amended on December 20, 2004. The draft proposed ordinance has also been amended to include the compliance with barrier free subcode of the State Uniform Construction Code Act (N.J.S.A. 52:27D-119 et seq.) and the accessibility requirements of N.J.S.A. 52:27D-123.15. The draft ordinance must be adopted within 45 days of COAH's grant of substantive certification and submitted to COAH immediately upon adoption.

An ordinance establishing the position of a municipal housing liaison and a resolution, number 2009-067, appointing a municipal housing liaison were adopted by South Hackensack on February 19, 2009.

South Hackensack is responsible for the continued re-sale and re-rental of existing affordable units and the initial sale and rental of newly constructed affordable units within South Hackensack and must identify an experienced administrative entity for that purpose by the contract, agreement or letter. South Hackensack has submitted a resolution dated

February 19, 2009, #2009-083, naming the Bergen County Housing Authority as the administrative entity for all of the Township's affordable units. Pursuant to N.J.A.C. 5:80-26.14(b), South Hackensack has submitted written operating manuals for the Accessory Apartments and the rehabilitation units.

D. Affirmative Marketing Plan

South Hackensack has submitted an affirmative marketing plan that comports with the requirements of the UHAC and ensures the units in the South Hackensack's 1987-2018 Fair Share Plan and all future affordable housing units will be affirmatively marketed to the region upon initial sale/rental and re-sale/re-rental. This plan was reviewed by COAH in letter dated April 23, 2009. The Township must submit a revised affirmative marketing plan, which, after approval, must be adopted by resolution by South Hackensack within 45 days of COAH's grant of substantive certification and submitted to COAH.

V. SUMMARY OF OBJECTION

De Grosa and Bedell

1. COAH received one objection to the Township of South Hackensack's Third Round plan, submitted by Joann De Grosa and Lonnie Bedell, of 51 Grove Street in the Township. Specifically, Ms. De Grosa and Mr. Bedell state that:
 - The number of age-restricted housing units proposed in the age-restricted rental project by Madeline was to include 25 age-restricted rental units when this project was included in the first version of the Township's third round plan and is now proposed to contain only 24 units; they assert that one of these units will be occupied by a live-in superintendant.
 - Mayor Romano and the Township Committee have not made the Township aware that the Madeline project is open to all income-eligible households in the region over the age of 55 years, and that these units are not reserved for residents of South Hackensack.
 - The objections and comments submitted by De Grosa and Bedell on May 5, 2006, in response to the Township's first version of its third round plan, should

be made a part of the present mediation as they were never addressed through a formal mediation process.

- South Hackensack is in COAH Housing Region 1. The Township proposes to advertise the availability of these age-restricted units in “The Record” newspaper, which De Grosa and Bedell allege will not reach all eligible applicants within the region.

2. Additionally, the objectors make comments concerning issues that are outside of COAH’s purview. These unrelated issues cover the following subject areas:

- a. Alleged harassment of Mr. Bedell by municipal attorney Mr. Carbone.
- b. Objections to South Hackensack’s previous petition for third round substantive certification which were never addressed in mediation.¹⁸

VI. RESULT OF MEDIATION

Mediation commenced on July 13, 2009 and concluded the same day with an agreement reached by the parties with no contested issues of material fact. A copy of the Mediation Report is attached as Appendix B. The objections that were considered as a part of mediation resulted in agreements as set forth in the Mediation Report. The objections which were not considered valid for purposes of COAH mediation, and are not addressed in this report, were not withdrawn by the objectors.

VII. MONITORING

South Hackensack must comply with COAH monitoring requirements as set forth in N.J.A.C. 5:96-11, including reporting the Township’s actual growth pursuant to N.J.A.C. 5:97-2.5. Pursuant to N.J.A.C. 5:96-10.1, COAH will conduct biennial plan evaluations upon substantive certification of the Township’s Housing Element and Fair Share Plan. The purpose of the plan evaluation is to verify that the construction or

¹⁸ Objectors are correct. COAH’s regulations were the subject of review by the Court and during that period, COAH conducted no mediation sessions. COAH revised its regulations pursuant to the Court’s recommendations and municipalities subsequently re-petitioned for third round substantive certification.

provision of affordable housing has been in proportion to the actual residential growth and employment growth in the Township and to determine that the mechanisms addressing the projected growth share obligation continue to present a realistic opportunity for the creation of affordable housing. If the units are determined not to be eligible for credit, COAH will notify South Hackensack in writing and the Township may be directed to amend its certified plan to address the shortfall.

COAH staff notes that South Hackensack's actual 10-unit growth share obligation to-date equals the Township's adjusted growth share obligation of 10 units. The Township's Fair Share Plan provides for 10 affordable units to meet its projected growth share obligation of 10 units. Pursuant to N.J.A.C 5:97-2.5, South Hackensack is required to provide affordable housing in direct proportion to the growth share obligation generated by the actual growth, which shall be monitored at its biennial review. At that time, should South Hackensack's actual growth share obligation be greater than 10 units, or the mechanisms addressing the projected growth share obligation no longer present a realistic opportunity for the creation of affordable housing, the Council may direct South Hackensack to amend its plan to address the shortfall.

VIII. RECOMMENDATION

COAH staff recommends that the Township of South Hackensack be granted third round substantive certification. South Hackensack must adopt all necessary implementing ordinances within 45 days of the grant of substantive certification and submit certified copies of the adopted ordinances to COAH within seven days of the adoption.

**COAH REPORT IN RESPONSE TO COMMENTS
RECEIVED REGARDING COMPLIANCE REPORT
SOUTH HACKENSACK TOWNSHIP / BERGEN COUNTY
REGION # 1
August 11, 2009**

On April 15, 2009, the Fair Share Housing Center (FSHC) submitted a comment to COAH regarding South Hackensack's Housing Element and Fair Share Plan. The comment focused on the degree of responsibilities to be borne by the New Jersey Meadowlands Commission (NJMC) in reference to obligations not addressed by the Township and in regards to regional planning and affordable housing development. Mediation commenced on July 13, 2009 and concluded that same day. A Mediation Report dated July 14, 2009 was included in the Township's Compliance Report dated July 24, 2009, however, FSHC's comment was inadvertently omitted from the report. It is included in the final substantive certification action by way of this addendum.

In addition, during the 14-day comment period following the receipt of South Hackensack Township's Compliance Report, two comments were received from objectors Joann De Grosa and Lonnie Bedell. These comments do not alter the outcome as described in the Compliance Report.

1. Fair Share Housing Center's Comments

The Fair Share Housing Center (FSHC) submitted a comment to South Hackensack's fair share plan on April 15, 2009. FSHC expresses concerns that the Township's plan does not address its entire unmet need. FSHC suggests that the New Jersey Meadowlands Commission (NJMC) be responsible for addressing the outstanding 24-unit prior round unmet need obligation and the 26-unit growth projection adjustment granted to the Township and that the previously granted vacant land adjustment be reconsidered by COAH.

The NJMC has zoning authority over 16.9 percent of the municipality. On May 12, 2007, the Commission was recognized by the Appellate Division, In the Matter of the Adoption of N.J.A.C. 19:3; 393 N.J. Super. 173 (App.Div.2007), to have a greater responsibility to plan and zone for affordable housing to ensure that constituent municipalities of the Meadowlands District are able to meet their affordable housing obligations and determined that the NJMC's

planning and zoning for affordable housing should be based on the affordable housing obligations of its constituent municipalities. Additionally, the FSHC sees last year's amendments to the Fair Housing Act, which calls for the NJMC to identify and coordinate regional affordable housing opportunities and to take a broader role in the planning and provision of affordable housing, as further evidence that the NJMC should "assume responsibility for the 24-unit prior round unmet need and the 26-unit third round obligation that South Hackensack is not planning to meet."

COAH's Response to FSHC

COAH staff has reviewed both the Township and the NJMC data on available lands and considers the previously granted vacant land adjustment to remain valid. COAH staff has further reviewed this data on available land to reach the conclusion that a growth projection adjustment is warranted. The NJMC has provided COAH with a report dated April 3, 2009, which reviews South Hackensack's petition. The Commission makes clear that to the date of the letter, development within the Meadowlands portion of the Township consisted of a warehouse addition of 48,000 square feet. The Commission further estimated that there are no potential development opportunities on land under their jurisdiction due to a lack of vacant land, as corroborated by the 2007 vacant land inventory completed for the National Center for Neighborhood and Brownfields Redevelopment at Rutgers, who included this data under contract with COAH in its Analysis of Vacant Land in New Jersey and Its Capacity to Support Future Growth, as published in May of 2008.

COAH staff notes that South Hackensack has implemented measures to address unmet need resulting from its prior round vacant land adjustment, including a development fee ordinance, a municipal wide overlay zone for project of five units or more, and the attribution of the remaining 24 age-restricted rental units at the Madeline project that are not being used to address the municipality's 1-unit RDP. COAH staff has determined that additional mechanisms to address potential growth share opportunities pursuant to N.J.A.C. 5:97-5.7 are not feasible beyond the mechanisms in plan to address the vacant land adjustment due to a lack of developable land. In addition, COAH staff notes that South Hackensack's growth share obligation will be based on actual growth that occurs in the municipality over time and that the actual growth share obligation may exceed the projected adjusted growth share obligation of 10.

COAH staff will monitor South Hackensack's actual growth share obligation at monitoring pursuant to N.J.A.C. 5:97-11.2.

Finally, COAH staff notes that the NJMC has convened an Affordable Housing Task Force to implement the provisions of A500. The Task Force is conducting a needs assessment for the NJMC region and is in the process of reviewing suitable locations for affordable housing in the District, determining suitable mechanisms to utilize these locational opportunities and in proposing a regional approach to coordinated planning for and production of affordable housing in cooperation with Meadowlands communities.

2. De Grosa and Bedell Comments #1

COAH received comments to the South Hackensack Compliance report on August 2nd and August 5th, 2009 from the objectors to South Hackensack's plan, Joann De Grosa and Lonnie Bedell.

De Grosa and Bedel raise several issues in their August 2, 2009 comment about the age-restricted rental project known as Madeline, at 37-43 Grove Street:

- a. Neither has received to date a written confirmation of the number of affordable housing units to be created at the Madeline project – 24 or 25, as promised at the mediation session.
- b. Neither has received to date a copy of the soils report for this parcel as promised at the mediation session.
- c. De Grosa and Bedell state that contrary to the Compliance Report, the Township has not addressed the issue of its affirmative marketing plan.
- d. Both state their understanding that it should be the developer's responsibility to handle affirmative marketing and not the municipal clerk, Linda LoPiccolo.
- e. Both contend that Linda LoPiccolo, for the Township, has no intention of abiding by the determination of mediation, and pursuant to COAH rules, that this project will be open to all eligible households within the region and not only eligible households in South Hackensack.
- f. Both state that the Township is amending its affordable housing code the day after the municipality is scheduled to receive substantive certification.

- g. Both state that it is a direct conflict for Linda LoPiccolo to be involved in the application process for this project.
- h. Both contend that although this project is age-restricted it is open to households where one member is 62 or older and not open to households where one member is 55 or older.
- i. Both request that the Council delay the determination of substantive certification or deny the petition outright until all items required by mediation are addressed by the municipality.

COAH's response

- a. COAH staff confirmed with Shari DePalma, developer, that this project will not have a superintendant living on site and that all 25 units will be available to eligible households.
- b. COAH staff understands that the objectors have since received this document.
- c. The Township has addressed its affirmative marketing obligation through its inclusion of an affirmative marketing plan in its petition of 2008 and in the plan recently revised per COAH's recommendations.
- d. A municipality may choose to perform the functions of an administrative agent themselves, may require the developer to do this or may hire an outside agency to perform these tasks. The Township has retained the Bergen County Housing Authority as the administrative agent for this project and has provided a copy of an executed contract dated February 19, 2009. This firm is an experienced administrative agent on COAH matters. The Township has selected Linda LoPiccolo, the Township clerk, to be the Municipal Housing Liaison, and in that capacity Ms. LoPiccolo would field general questions pertaining to South Hackensack's affordable housing and would distribute applications or direct those inquiring where applications might be available. Ms. LoPiccolo was approved as an MHL by COAH on February 23, 2009 and has successfully completed our Module 1 training session.
- e. COAH is assured that the Township will comply with COAH's affirmative marketing requirements as stated in the municipality's affirmative marketing plan and as

overseen by the Low Income Housing Tax Credit program administered by the New Jersey Mortgage and Finance Agency.

- f. COAH does not have enough facts to comment on any proposed amendments.
- g. COAH does not view Linda LoPiccolo's designation as the MHL as a conflict.
- h. According to the developer, this project is open to households where one member is 62 years of age or older.

3. De Grosa and Bedell Comments #2

De Grosa and Bedell raised two issues in their comment of August 5, 2009:

- a. De Grosa and Bedell urge the Council to wait on the granting of substantive certification until the municipality has provided all documents required by mediation.
- b. Both ask that should the Council decide not to wait to address the Township's petition, that the Council instead deny South Hackensack's request for substantive certification.

COAH's response

- a. COAH has directed the municipality to ensure all items required as a result of mediation be addressed within 45 days of substantive certification and in support of that process the Township has forward a resolution adopted by the governing body on August 6, 2009 that stipulates just such a course of action. In addition, on August 11, 2009, COAH received from the Township an electronic copy of a press release intended to resolve the final, three-part issue remaining outstanding from the mediation of July 13, 2009. Approval of this press release will be read at the governing body meeting scheduled for August 13, 2009.
- b. COAH staff has recommended that the Council grant substantive certification, however, the Council makes the decisions on grants of substantive certification.